

K-C Docket No.: 19,457
Serial No.: 10/747,924

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Appellants:	Jeffrey M. LaFortune	Docket No.:	19,457
Serial No.:	10/747,924	Group:	1771
Confirmation No:	7068	Examiner:	Matthew D. Matzek
Filed:	December 29, 2003	Date:	November 5, 2007
For:	Surface Charge Manipulation for Improved Fluid Intake Rates of Absorbent Composites		

Reply Brief Transmittal Letter


Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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I, Bryan R. Rosiejka, hereby certify that the attached correspondence comprising:
REPLY BRIEF (5 pages)

6 total pages, including this page

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Bryan R. Rosiejka

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Sir:

Pursuant to 37 C.F.R. § 41.41, Appellant respectfully submits this **Reply Brief** in response to Examiner Matzek's **Examiner's Answer** which was mailed September 5, 2007, and which pertains to the Appeal of the Examiner's **Final Rejection** of claims 1, 2, and 4-19 which was mailed on January 16, 2007.

K-C Docket No. 19457
Serial No. 10/747,924

Status of Claims

Claims 1, 2, and 4-34 remain in the application with claims 1, 2, and 4-19 being finally rejected.
Claim 3 has been canceled. Claims 20-34 have been withdrawn.

Accordingly, claims 1, 2, and 4-34 remain under appeal.

K-C Docket No. 19457
Serial No. 10/747,924

Grounds of Rejection to be Reviewed on Appeal**Ground 1**

Claims 1, 2, 4-12, and 15-19 were rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 4,604,313 issued to McFarland et al. ("McFarland") in view of U.S. Patent No. 5,700,559 issued to Sheu et al. ("Sheu").

Ground 2

Claims 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,604,313 issued to McFarland et al. in view of U.S. Patent No. 5,700,559 issued to Sheu et al., and further in view of U.S. Patent No. 5,147,343 issued to Kellenberger.

K-C Docket No. 19457
Serial No. 10/747,924

Argument

1. Section (10) Response to Argument – Paragraph B

In response to the Office's argument in the Examiner's Answer mailed September 5, 2007, page 6, paragraph B, Appellant respectfully maintains the position set forth in the Appeal Brief dated June 19, 2007.

2. Section (10) Response to Argument – Paragraph C

In Section (10), paragraph C of the Examiner's Answer mailed September 5, 2007, the Office states that "McFarland is directed to an absorbent article and Sheu is directed to treating a variety of articles to make them more hydrophilic. Included in the articles in which it would be desirable to increase their hydrophilicity, wettability or wicking ability are diapers and other liners..." (Examiner's Answer mailed September 5, 2007, page 6). The Office cites Sheu, column 5 lines 62-65, for support (*Id.*). The Office concludes that "Therefore, McFarland and Sheu are in fact analogous art." (*Id.*).

a. McFarland and Sheu are nonanalogous art.

In response to the Office's contention that McFarland and Sheu are analogous art because Sheu cites diapers and other liners, Appellant respectfully notes that Sheu, in column 5 lines 62-65, states that "This invention may also be applied in the food industry, the paper printing industry, hospital supplies, diapers and other liners, and other areas where hydrophilic, wettable, or wicking articles are desired." (emphasis added).

It can be seen that with respect to diapers, Sheu is directed to the liner component of the diaper, not the absorbent composite component, as in Appellant's invention. In addition, Sheu is directed to hydrophilic, wettable, or wicking articles, but not to absorbent articles as in McFarland, and not to absorbent articles having an improved fluid intake rate, as in Appellant's invention.

For at least these reasons, and for the reasons set forth in the Appeal Brief dated June 19, 2007, Appellant respectfully maintains the position that McFarland and Sheu are nonanalogous art.

3. Section (10) Response to Argument – Paragraph D

In response to the Office's argument in the Examiner's Answer mailed September 5, 2007, page 6, paragraph D, Appellant respectfully maintains the position set forth in the Appeal Brief dated June 19, 2007.

K-C Docket No. 19457
Serial No. 10/747,924

4. Section (10) Response to Argument – Paragraph E

In Section (10), paragraph E of the Examiner's Answer mailed September 5, 2007, the Office alleges that "An increase in wettability and wickability does in fact increase the rate in which an object can absorb fluids. Therefore, it results in increased hydrophilicity, wettability and wickability." (Examiner's Answer mailed September 5, 2007, page 6).

a. Hydrophilicity, wettability and wickability do not necessarily equate to improved fluid intake.

In response to the Office's contention, Appellant respectfully points out that the Office provides no evidence to support the alleged fact that an increase in wettability and wickability does in fact increase the rate in which an object can absorb fluids. In addition, the Office's argument appears to be circular in reasoning.

Appellant respectfully disagrees with the Office's position and reasoning. Appellant respectfully maintains the position set forth in the Appeal Brief dated June 19, 2007.

5. Conclusion

For the reasons stated above it is Appellants' position that the Office's rejection of claims 1, 2, and 4-19 should be **reversed** by the Board.

Therefore, in addition to the reasons set forth in Appellants' Appeal Brief dated June 19, 2007, the rejections of the claims on appeal are submitted to be in error for the reasons set forth above. Appellants do not believe that any fee is due. However, the Commissioner is hereby authorized to charge any deficiency or overpayment of any fees to Deposit Account No. 11-0875. The undersigned may be reached at 920-721-4405.

Respectfully submitted,

JEFFREY MARK LAFORTUNE

By: 

Bryan R. Rosiejka

Registration No.: 55,583